



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,509	09/23/2004	Fang-Chen Luo	12405-US-PA-0P	5508
31561	7590	08/03/2006	EXAMINER	
JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE 7 FLOOR-1, NO. 100 ROOSEVELT ROAD, SECTION 2 TAIPEI, 100 TAIWAN				BREWSTER, WILLIAM M
		ART UNIT		PAPER NUMBER
		2823		
DATE MAILED: 08/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.	10/711,509	Applicant(s)	LUO ET AL.
Examiner	William M. Brewster	Art Unit	2823

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) The period for reply expires 3 months from the mailing date of the final rejection.
 b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) They raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) They raise the issue of new matter (see NOTE below);
 - (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. Applicant's reply has overcome the following rejection(s): _____.
6. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. For purposes of appeal, the proposed amendment(s): a) will not be entered, or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. Other: _____.

William M. Brewster
 WILLIAM M. BREWSTER
 PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 24 July 2006 have been fully considered but they are not persuasive. Applicant argues that 1) Wuu does not teach a source or drain region that is formed over the channel which Lee does not allegedly have, and 2) that the first and second sub-amorphous layers are formed differently from Wuu.

Examiner respectfully disagrees. The English language is unfortunately nowhere near as precise as mathematics, formulae, or diagrams. As such the USPTO has tasked the examiner with an unwaivable task of interpreting claim language as broadly as possible (see below). For 1), turning to Wuu, in fig. 6, an observer can see that the top upper corner of the shaded area, the source or drain region, of 18 has greater vertical height than the bottom corner of the unshaded channel region. Thus "over" as defined by Merriam-Webster Online, defines over to be, "3 a : ABOVE". Furthermore, the claim limitation defines the "source/drain regions". Nowhere does the claim mandate that the region has to be implanted. As such the source/drain contacts may and often are included as part of the source/drain regions. Lee is only provided to illustrate the contacts. Contacts attached to Wuu's source/drain implanted areas would not render the device inoperable as applicant alleges. Indeed, some source/drain contacts would have to be formed otherwise an electrical signal would not flow through the device.

For 2) examiner reads the claim to find some distinguishing feature between the two sub-amorphous layers other than the second is over the first. Examiner checks to see if there is a difference in the deposition rate. However, examiner can find no limitation as to the distinguishing features of the deposition rate. Examiner checks to see if there is a difference in the doping of the two layers. However, examiner can find no limitation as to the distinguishing features of the doping of the two layers. Examiner checks to see if there is any other difference between the two layers. However, examiner can find no limitation as to the distinguishing features between the two layers, other than the above-mentioned placement. As such, the distinguishing feature is purely subjective and is inadequate for novelty according to US Patent Law.

Examiner must give claims their broadest reasonable interpretation, MPEP §2111, "During patent examination, the pending claims must be 'given the broadest reasonable interpretation consistent with the specification.' Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified, *In re Pratter*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969), *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997)." Also see *In re Zletz*, 13 USPQ 2d. 1320 (Fed. Cir. 1989).

For the above reasons, the objection is proper..